



Jew

PATENT
Customer No. 22,852
Attorney Docket No. 06530.0295

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
Robert DeVRIES et al.) Group Art Unit: 3739
Application No.: 10/748,243) Examiner: M. Kasztejna
Filed: December 31, 2003) Confirmation No.: 6999
For: DEVICES AND METHODS FOR)
TISSUE INVAGINATION)

MAIL STOP AMENDMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

RESPONSE TO RESTRICTION REQUIREMENT

In a restriction requirement dated September 26, 2005, the Examiner required restriction under 35 U.S.C. § 121 between:

- Group I: Claims 1-33 and 38-40, allegedly drawn to a surgical device for invaginating esophageal tissue;
- Group II: Claims 34-37, allegedly drawn to a device for displacing tissue of a body;
- Group III: Claims 41-74, allegedly drawn to a method of invaginating tissue; and
- Group IV: Claims 75-91, allegedly drawn to a device to cover a distal end of an endoscopic instrument.

In addition, upon election of Group I or III above, the Examiner required restriction to one of the following allegedly distinct species:

- Species 1: a device for holding esophageal tissue during fundoplication through the use of a vacuum port and suction (see Figs. 14-16);

- Species 2: a device for holding esophageal tissue of a body through the use of a needle projection configured to engage the esophageal tissue (see Fig. 17);
- Species 3: a device for holding esophageal tissue of a body wherein a friction member frictionally engages the esophageal tissue (see Fig. 20); and
- Species 4: a device for invaginating tissue of a first organ into a second organ wherein a balloon member applies a force to the tissue (see Figs. 18 and 19).

Although Applicants do not necessarily agree with the Examiner's characterizations concerning various exemplary embodiments, Applicants provisionally elect, with traverse, to prosecute Group I (i.e., claims 1-33 and 38-40) and Species 1 for prosecution in this case. Applicants respectfully submit that at least claims 1-17 read on elected Group I and Species 1.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: October 20, 2005

By:


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